

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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In the Matter of)
)
 Wireless Telecommunications)
 Bureau Incorporates Nextel)
 Communications, Inc. Waiver)
 Record into WT Docket No. 99-87)
)

WT Docket No. 99-87

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

To: The Chief
 Wireless Telecommunications Bureau

COMMENTS
of the
CHADMOORE WIRELESS GROUP, INC.

1. Chadmoore Wireless Group, Inc. ("Chadmoore") respectfully submits these Comments in response to the Federal Communication Commission's ("FCC" or "Commission") *Public Notice* inviting additional comment on several waiver requests filed by Nextel Communications, Inc. ("Nextel"). Chadmoore believes that, with certain specific qualifications as outlined below, adoption of the policy course suggested by Nextel's filings will serve the public interest.¹ Thus, Chadmoore is pleased to have this opportunity to comment on the Commission's proposal.

I. INTRODUCTION AND BACKGROUND STATEMENT

2. Chadmoore is a licensee and manager of numerous facilities authorized throughout the nation in the 800 MHz Special Mobile Radio ("SMR") service. Chadmoore has now activated full market services over its 800 MHz authorized facilities in 80 cities throughout a significant area

¹ Wireless Telecommunications Bureau Incorporates Nextel Communications, Inc. Waiver Record Into WT Docket No. 99-87, Seeks Comment on Licensing of PMRS Channels in the 800 MHz Band for Use in Commercial SMR Systems, *Public Notice*, DA 99-1431, (rel. July 21, 1999) (hereinafter "*Public Notice*").

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encompassing 41 states, Puerto Rico and the U.S. Virgin Islands. Chadmoore holds additional authorizations and is in the process of further commercial roll-out of dispatch services on a wide area basis by which it is expected that Chadmoore's services ultimately will be available in 168 markets. Chadmoore's system encompasses facilities which operate on frequency assignments from both the "lower 80" and "upper 200" SMR channels as well as General Category channels.

3. While numerous new entrants in the mobile radio service arena apparently are concentrating on large-scale business customers, Chadmoore has taken a different approach. The principal thrust of Chadmoore's marketing activity has been to provide basic voice and data telecommunications services to businesses who do not always have the resources to afford the highly expensive and technologically complex services offered by large-scale CMRS entities. Thus, many business entities in the markets served by Chadmoore have taken advantage of Chadmoore's services and have realized the benefits of mobile telecommunications capabilities to enhance the efficiency of their operations. Without Chadmoore's offerings, many businesses who now have reliable mobile telecommunications access, would be placed at a competitive disadvantage and would be unable to enjoy the benefits, including safety-oriented benefits, that wireless telephony and related services can offer.

4. Chadmoore also notes that many of its customers have heightened needs for reliable and affordable capabilities. For example, in some markets, Chadmoore provides telecommunications services to private ambulance services, which count on Chadmoore's services to ensure prompt dispatch in emergencies. Thus, Chadmoore believes that it provides a valuable service to its niche market and that the Commission must take steps to enable Chadmoore and

other similar entities to continue to make their brand of services available to under-served segments of the business community.

II. COMMENTS

5. As an initial matter, Chadmoore herein notes its timely filing of Reply Comments in this matter on December 11, 1998; and, fully incorporates by reference herein, its earlier reply commentary. In its Reply Comments, Chadmoore noted agreement with Nextel that allowing licensees of various categories to make spectrum usage decisions based on marketplace factors rather than regulatory restrictions would ensure that such decisions would be based on rational economic considerations that promote efficient use of the spectrum. Nevertheless, Chadmoore made clear that its support for Nextel's proposal was strictly qualified. Chadmoore noted its full agreement with the expression in the Comments of, among others, the American Mobile Telecommunications Association ("AMTA") that the relief sought by Nextel should be made available to all properly licensed 800 MHz operators.² Chadmoore warned the Commission that should it simply grant waivers to Nextel and not adopt some policy wherein the rules would be generally relaxed or similar waivers from other entities be routinely entertained and promptly granted, the issuance of relief only to Nextel would provide the nation's largest 800 MHz licensee with a competitive advantage over other smaller and less well funded SMR players, such as Chadmoore. Thus, Chadmoore noted its agreement with AMTA that the Commission should announce a policy granting liberal waiver relief or more properly initiate a rule making proceeding to cover this matter prior to the grant of any relief to Nextel.

² Chadmoore Reply Comments at ¶ 5.

6. Accordingly, Chadmoore supports the Commission's decision to incorporate this matter into a general rule making proceeding as noted in the *Order* disposing of Nextel's waiver requests.³ Chadmoore continues to believe that the Commission will help further meet the needs of SMR dispatch service users by allowing flexible exchanges of spectrum between private licensee entities and commercial SMR operators where exchanges are appropriate and agreed upon by all parties. Chadmoore hopes that the Commission will, through the instant rule making proceeding, adopt a general policy wherein all SMR operators may be allowed to enter into such arrangements with private licensees where feasible.

7. Nevertheless, Chadmoore also notes, with alarm, that the Commission has given wide ranging waiver relief to Nextel prior to clearly adopting a policy wherein other SMR licensees may take equal advantage of the opportunities the Commission is affording to Nextel. While the underlying policy goals of the Nextel waiver are laudable, Chadmoore reiterates its earlier comment in this proceeding, that allowing such relief to Nextel prior to a clear allowance of such relief to all SMR licensees, or alternatively, adoption of a change in the rules to afford relief to such parties, will only serve the private needs of Nextel and not the public interest. Chadmoore strenuously opposes such action. Any provision of relief to Nextel in this instance prior to a similar grant of relief or rule change affecting all SMR licensees would simply provide a private benefit to Nextel without providing the public benefits posited by the Commission as a rationale for revisiting the intercategory sharing rules. Additionally, by granting relief only on the basis of migration of incumbents from the upper 200 channels as opposed to allowance of

³ In the Matter of Nextel Communications, Inc., Requests for Waiver of 47 C.F.R. §§90.617(c) and 90.619(b), *Order*, DA 98-1404 (rel. July 21, 1999) (hereinafter "*Order*").

expansion of current SMR systems, it appears possible that the Commission may be considering a foray into a rule change that will only benefit EA licensees - primarily Nextel. Should the Commission adopt such a course it would appear that the Commission would be "playing favorites" with a limited number of parties to the detriment of all other SMR operators, predominantly on the premise that EA licensees obtained spectrum through auctions. Such a course would be contrary to both the dictates of Congress and the public interest, and Chadmoore respectfully cautions the Commission against any such course of action.

8. Wherefore, the premises considered, Chadmoore respectfully seeks Commission action in accordance with the foregoing Comments.

Respectfully Submitted,



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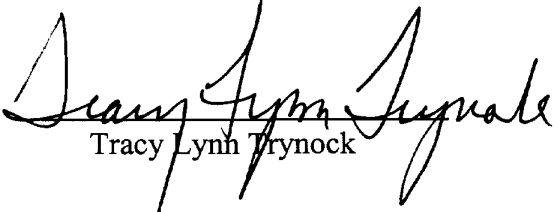
CERTIFICATE OF SERVICE

I, Tracy Lynn Trynock, hereby certify that on this 2nd day of August, 1999, a copy of the foregoing "Comments of the Chadmoore Wireless Group, Inc." have been served by hand delivery upon the following:

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